

Before the  
**UNITED STATES COPYRIGHT ROYALTY JUDGES**  
Library of Congress  
Washington, DC

*In re*

**DETERMINATION OF ROYALTY RATES  
AND TERMS FOR PERFORMANCE OR  
DISPLAY OF NONDRAMATIC MUSICAL  
WORKS AND PICTORIAL, GRAPHIC, AND  
SCULPTURAL WORKS BY PUBLIC  
BROADCASTING ENTITIES (PB IV)**

**Docket No. 21-CRB-0002-PBR  
(2023-2027)**

**JOINT PROPOSAL OF THE HARRY FOX AGENCY LLC AND THE NATIONAL  
RELIGIOUS BROADCASTERS NONCOMMERCIAL MUSIC LICENSE COMMITTEE  
REGARDING FEES FOR RECORDING RIGHTS UNDER 37 C.F.R. § 381.7(B)(4)**

The Harry Fox Agency LLC (“HFA”) and the National Religious Broadcasters Noncommercial Music License Committee (“NRBNMLC”) join in a proposal concerning the fees for recording rights under 37 C.F.R. § 381.7(b)(4) for the years 2023 through 2027.

HFA<sup>1</sup> was established in 1927 as an agency to license, collect, and distribute royalties on behalf of musical copyright owners. HFA represents more than 48,000 publisher-principals and over 7 million copyrighted musical works. HFA issues licenses for the use of musical works by noncommercial broadcasters, pursuant to 17 U.S.C. § 118, and for use in a variety of products manufactured and distributed in the U.S., on behalf of these publishers. These licenses grant the rights to reproduce and distribute copyrighted musical compositions (songs) for use on CDs,

---

<sup>1</sup> The Harry Fox Agency LLC is a subsidiary of SESAC Holdings, Inc. and a sister company to SESAC Performing Rights, LLC, a U.S.-based performing rights organization and a separate participant in these proceedings.

records, tapes, ringtones, permanent downloads, interactive streams and other digital formats supporting various business models.

The NRBNMLC is a subcommittee of the National Religious Broadcasters Music License Committee, which is a standing committee of the National Religious Broadcasters. The NRBNMLC represents hundreds of noncommercial educational religious radio broadcasters in music licensing matters and has negotiated on their behalf in this proceeding and prior proceedings under Section 118.

### **THE PROPOSAL**

The recording rights provisions in 37 C.F.R. § 381.7(b)(4) cover the fees for the recording of nondramatic performances and displays of musical works for the types of uses described in 17 U.S.C. § 118(c)(2) and (3) by noncommercial radio stations other than uses in a radio program produced by National Public Radio (“NPR”) and other than uses subject to voluntary license agreements. This form of a joint proposal is used in lieu of a voluntary settlement agreement because the NRBNMLC does not represent all of the radio stations subject to these rates.

HFA and the NRBNMLC propose that the fees for each year of the 2023-2027 statutory license period for uses described in 37 C.F.R. § 381.7(b)(4) should be as follows:

**§381.7 Recording rights, rates and terms.**

...

(b) Royalty rate.

...

(4) For such uses other than in an NPR-produced radio program:

	<b>2023-2027</b>
(i) Feature	\$0.83
(ii) Feature (concert) (per half hour)	\$1.72
(iii) Background	\$0.42

HFA and the NRBNMLC also propose carrying forward unchanged the provisions currently set forth in 37 C.F.R. §§ 381.1 (except that “January 1, 2018” should be replaced with “January 1, 2023”; and “December 31, 2022” should be replaced with “December 31, 2027), 381.2, 381.9 and 381.11. HFA is separately negotiating with National Public Radio, Inc. and the Public Broadcasting Service regarding the provisions in 37 C.F.R. § 381.7 other than 37 C.F.R. § 381.7(b)(4), and expect to file a separate proposal addressing those provisions. Proposed regulatory language for sections 381.1, 381.2, 381.7(b)(4), 381.9, and 381.11 is set forth in Appendix A hereto.

**CONCLUSION**

HFA and the NRBNMLC respectfully request that the Copyright Royalty Judges adopt their joint proposal.<sup>2</sup>

---

<sup>2</sup> In addition to the NRBNMLC, the only other broadcasting entity that filed a petition to participate in this proceeding and is listed on the Participant List that represents radio stations in this category is Educational Media Foundation (“EMF”), which is represented by the NRBNMLC. EMF joins in this proposal.

Respectfully submitted,

**THE HARRY FOX AGENCY LLC**

**NATIONAL RELIGIOUS  
BROADCASTERS NONCOMMERCIAL  
MUSIC LICENSE COMMITTEE**

By: /s/ John C. Beiter  
John C. Beiter  
LEAVENS, STRAND & GLOVER, LLC  
1102 17th Avenue South, Suite 306  
Nashville, TN 37212  
P: 615-341-3457  
[jbeiter@lsglegal.com](mailto:jbeiter@lsglegal.com)

*Counsel for The Harry Fox Agency LLC  
(HFA)*

By: /s/ Karyn K. Ablin  
Karyn K. Ablin (DC Bar No. 454473)  
FLETCHER, HEALD & HILDRETH, PLC  
1300 N. 17th Street, Suite 1100  
Arlington, VA 22209  
P: 703-812-0400  
F: 703-812-0486  
[ablin@fhhlaw.com](mailto:ablin@fhhlaw.com)

*Counsel for the National Religious  
Broadcasters Noncommercial Music  
License Committee*

Michael Smith  
Stephen Block  
THE HARRY FOX AGENCY LLC  
40 Wall Street, 6<sup>th</sup> Floor  
New York, NY 10005  
P: 212-922-3286  
*Of Counsel to The Harry Fox Agency LLC  
(HFA)*

Dated: June 21, 2021

## **APPENDIX A**

### **§ 381.1 General.**

This part establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic and sculptural works during a period beginning on January 1, 2023, and ending on December 31, 2027. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(c).

### **§ 381.2 Definition of public broadcasting entity.**

As used in this part, the term public broadcasting entity means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(c).

### **§ 381.7 Recording rights, rates and terms.**

...

(b) *Royalty rate.*

...

(4) For such uses other than in an NPR-produced radio program:

	<b>2023-2027</b>
(i) Feature	\$0.83
(ii) Feature (concert) (per half hour)	\$1.72
(iii) Background	\$0.42

...

### **§ 381.9 Unknown copyright owners.**

If [PBS and its stations, NPR and its stations,] or other public broadcasting entity is not aware of the identity of, or unable to locate, a copyright owner who is entitled to receive a royalty payment under this part, they shall retain the required fee in a segregated trust account for a period of three years from the date of the required payment. No claim to such royalty fees shall be valid after the expiration of the three-year period. Public broadcasting entities may establish a joint trust fund for the purposes of this section. Public broadcasting entities shall make available to the Copyright Royalty Judges, upon request, information concerning fees deposited in trust funds.

**§ 381.11 Notice of restrictions on use of reproductions of transmission programs.**

Any public broadcasting entity which, pursuant to 17 U.S.C. 118, supplies a reproduction of a transmission program to governmental bodies or nonprofit institutions shall include with each copy of the reproduction a warning notice stating in substance that the reproductions may be used for a period of not more than seven days from the specified date of transmission, that the reproductions must be destroyed by the user before or at the end of such period, and that a failure to fully comply with these terms shall subject the body or institution to the remedies for infringement of copyright.

# Proof of Delivery

I hereby certify that on Monday, June 21, 2021, I provided a true and correct copy of the JOINT PROPOSAL OF THE HARRY FOX AGENCY LLC AND THE NATIONAL RELIGIOUS BROADCASTERS NONCOMMERCIAL MUSIC LICENSE COMMITTEE REGARDING FEES FOR RECORDING RIGHTS UNDER 37 C.F.R. § 381.7(B)(4) to the following:

Public Broadcasting Entities, represented by David P Mattern, served via ESERVICE at dmattern@kslaw.com

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

American Society of Composers, Authors and Publishers, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Educational Media Foundation, represented by David Oxenford, served via ESERVICE at doxenford@wbklaw.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Broadcast Music, Inc., represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@faegredrinker.com

Church Music Publishers' Association, Inc., represented by Carroll C Rigler, served via ESERVICE at cheshirerigler@shrumhicks.com

Signed: /s/ John C. Beiter